

**ZB# 99-36**

**Windsor Academy**

**40-3-37**

Prelim.  
Aug. 9, 1999.

Fee due

Public Hearing:  
October 25, 1999.

November 8, 1999

Refunded:

\$208.00

#99-36- Windsor Academy  
(former Atx Learning Center)  
use r2 Interg/area.

40-3-37

# RECEIPT 082206

DATE 10/21/99

RECEIVED FROM Heads, Hands and Heels, Inc

Address \_\_\_\_\_

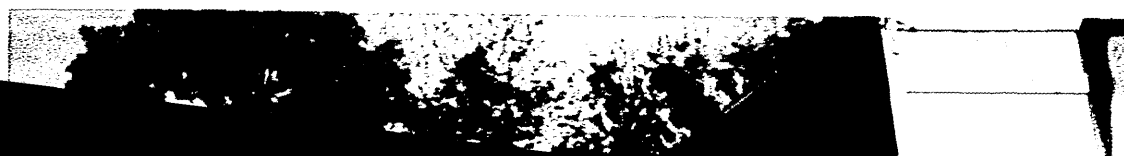
One Hundred fifty 00/100 DOLLARS \$ 150.00

FOR 2 BA #99-36

ACCOUNT			HOW PAID		
BEGINNING BALANCE			CASH	20.00	
AMOUNT PAID			CHECK	150.00	
BALANCE DUE			MONEY ORDER		

Town Clerk

BY Dorothy W. Hor

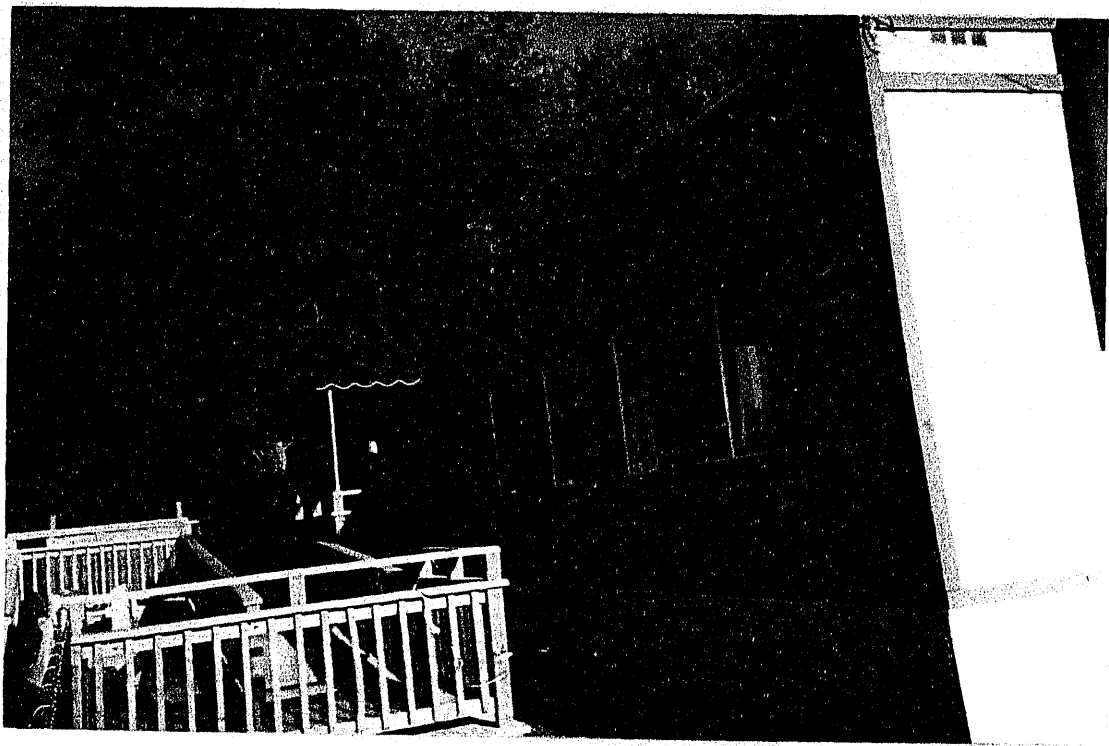
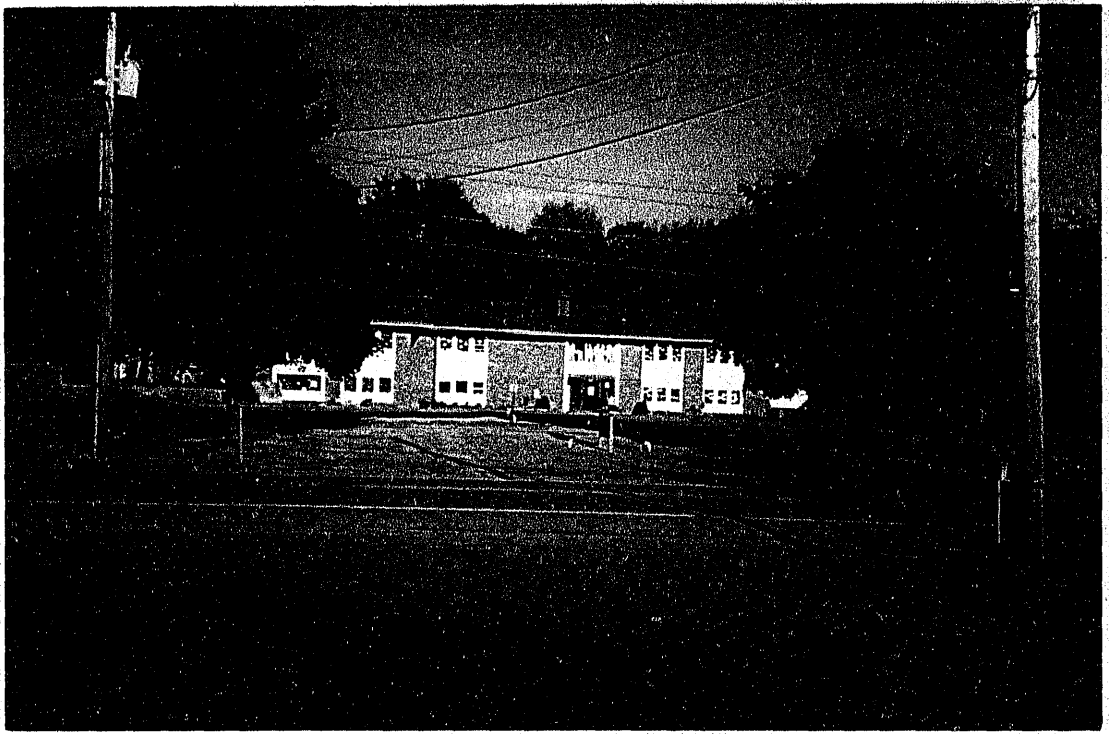


Wilson-Jones

© Wilson Jones, 1989

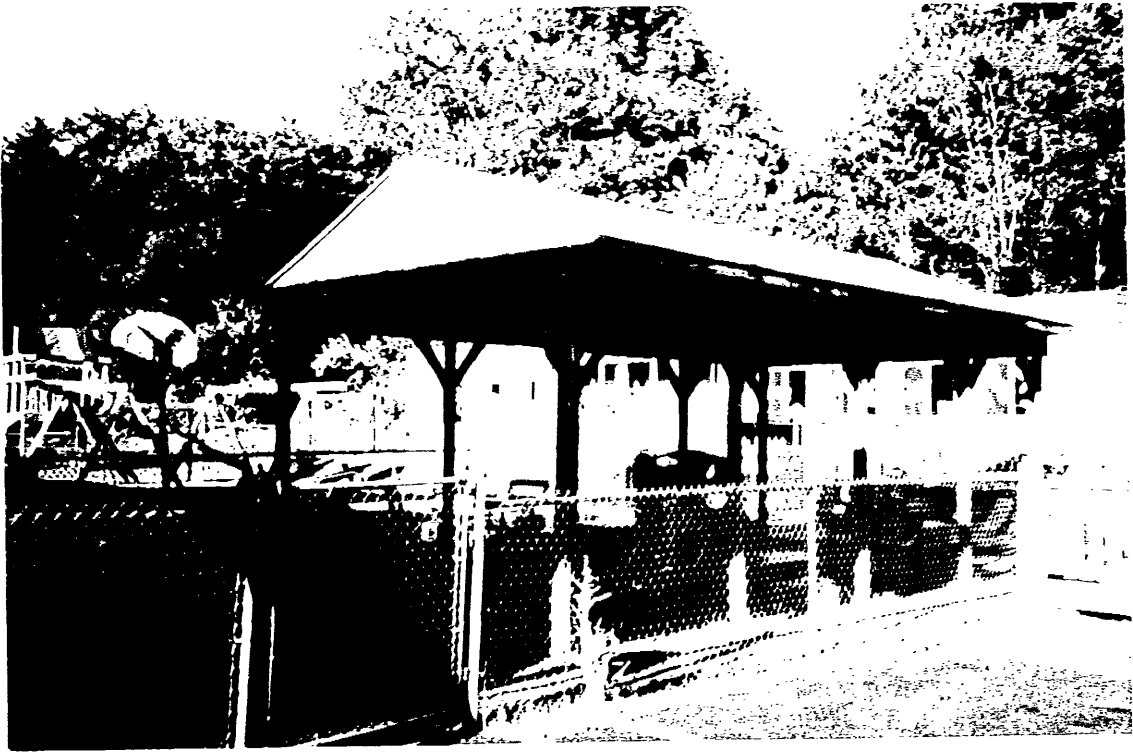
AMOUNT PAID		CHECK	150.00
BALANCE DUE		MONEY ORDER	

BY Donatay N. Ham



40-3-37





Waco Int'l Area

7000001

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Windsor Academy

FILE# 99-36

RESIDENTIAL: \$50.00  
INTERPRETATION: \$150.00

COMMERCIAL: \$150.00

AREA X

USE X

APPLICATION FOR VARIANCE FEE ..... \$ 150.00

\*

\*

\*

ESCROW DEPOSIT FOR CONSULTANT FEES ..... \$ 500.00

DISBURSEMENTS:

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING-PER PAGE 8/9/99-15 \$ 67.50

2ND PRELIMINARY- PER PAGE 10/25/99-18 \$ 81.00

3RD PRELIMINARY- PER PAGE 11/8/99-3 \$ 13.50

PUBLIC HEARING - PER PAGE ..... \$

PUBLIC HEARING (CONT'D) PER PAGE ..... \$

TOTAL ..... \$ 162.00

ATTORNEY'S FEES: \$35.00 PER MEETING

PRELIM. MEETING: 8/9/99 ..... \$ 35.00

2ND PRELIM. 10/25/99 ..... \$ 35.00

3RD PRELIM. .... \$

PUBLIC HEARING. .... \$

PUBLIC HEARING (CONT'D) ..... \$

TOTAL ..... \$ 70.00

MISC. CHARGES:

..... \$

TOTAL ..... \$ 232.00

LESS ESCROW DEPOSIT ..... \$ 500.00

(ADDL. CHARGES DUE) ..... \$

REFUND DUE TO APPLICANT . \$ 268.00

file

In the Matter of the Application of  
**WINDSOR ACADEMY**

**MEMORANDUM OF  
DECISION GRANTING  
AREA VARIANCE**

#99-36

**WHEREAS, WINDSOR ACADEMY (aka ABC Learning Center),** located at 271 Quassaick Avenue, New Windsor, N. Y. 12553, has made application before the Zoning Board of Appeals for 85 ft. side yard, 139 ft. 8 in. total side yard, and 85 ft. rear yard variances, plus 4.18% developmental coverage to allow modular trailers to be used on a permanent basis for classrooms on east side of Quassaick Avenue in an NC; and

**WHEREAS,** a public hearing was held on the 25th day of October, 1999 and the 8<sup>th</sup> day of November, 1999 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS,** the Applicant appeared by Marshall Rosenblum, A.I.A., Rita Epstein and Jean Poliano for this Application; and

**WHEREAS,** there were four spectators appearing at the public hearing; and

**WHEREAS,** four persons spoke in opposition to the Application; and

**WHEREAS,** a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

**WHEREAS,** the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a commercial property consisting of a number of buildings used for a school located in a commercial zone and a neighborhood containing both commercial and residential uses.

(b) This property is located on a busy state highway.

(c) This property has been used as a school for more than 20 years and has been used as a school since before the enactment of zoning laws in the Town of New Windsor.

(d) The Applicant had previously received permission to install modular classrooms on a temporary basis. The Applicant now seeks variances from the ZBA to permit those temporary, modular classrooms to remain as permanent structures.

(e) The additional buildings were installed as temporary classrooms in order to permit the Applicant to increase the size and height of the main structure. The Applicant has now found that to be impractical to do so and seeks to make the previous permitted temporary structures permanent.

(f) The additional, modular classrooms used are fully functional and seem to meet all the requirements of the New York State Building Code.

(g) The building and grounds have been improved with additional screening, fence and walkways since approval of the temporary structures.

(h) The property is located in such a way so that the view of the play area at the rear of the property is buffered by structures that block the view of same from the two adjoining properties.

(i) If approved, the plan is subject to site plan approval by the New Windsor Planning Board.

(j) One of the neighbors to the property objected to a lack of screening and the Applicant agreed as a condition of granting the variances which are sought, to provide additional screening on that side.

(k) The property has been reviewed and approved by the New Windsor Fire Inspector.

(l) When it is in session, the School would probably have no more than 120 children on the site.

(m) Some question was raised by members of the audience about an adverse impact on local property values if the requested variances were granted but no proof was submitted to the Board of any such adverse impact.

(n) The additional units, sometimes referred to as modular units, have been installed on foundations on the property and are in place.

**WHEREAS,** The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to the Applicant which can produce the benefits sought.

3. The variances requested are substantial in relation to the Town regulations but nevertheless are warranted for the reasons listed above.

4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variances are granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.

7. The requested variances are appropriate and are the minimum variances necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will only be served if the granting of the requested variances are conditioned upon the Applicant installing additional screening so that the full length of the residential property (n/f Pennisi) is screened. This screening must be accomplished in accordance with the recommendations of the Planning Board made at the time when site plan is granted. The installation of the screening is a condition of the granting of this variance.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for 85 ft. side yard, 139 ft. 8 in total side yard, 85 ft. rear yard and 4.18% developmental coverage to allow modular units on a permanent basis for classrooms at 271 Quassaick Avenue, New Windsor, N. Y., in an NC zone as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

**RESOLVED**, that such grant being conditioned upon the installation by the Applicant of screening in accordance with Paragraph 8 above.

**BE IT FURTHER**

**RESOLVED**, that the Secretary of the Zoning Board of Appeals of the Town of New

Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: February 14, 2000.

A handwritten signature in cursive script, appearing to read "James M. Houghton", is written over a horizontal line.

Chairman

Date \_\_\_\_\_

**TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553**

TO Heads, Hands and Hearts, Inc. DR.  
271 Quassack Ave., New Windsor, N.Y. 12553

DATE	CLAIMED	ALLOWED
11/11/00	Refund of Coorow Deposit #99-36	\$268.00
<p>Approved: Patricia A. Brumhart LBA</p>		

STATE OF NEW YORK,  
TOWN OF NEW WINDSOR

} ss.

.....  
I hereby certify, that the items of this account are correct; that the disbursements and services charged therein have in fact been made and rendered, and that no part thereof has been paid or satisfied, that the amount herein mentioned is in full settlement for all services rendered and materials furnished.

Sign Here .....

No. ....

Town of New Windsor

.....  
Nature .....

Amount Claimed \$ .....

Amount Allowed \$ .....

Filed .....

I hereby certify that at a meeting of  
said Town Board held at the office of the  
Town Clerk on the ..... day

of ....., 19.....

the within claim was audited and allowed  
for the sum of

\$ .....

.....  
Clerk



HEADS, HANDS AND HEARTS, INC.  
271 QUASSAICK AVE.  
NEW WINDSOR, NY 12553  
(914) 562-3711

DATE	INVOICE	AMOUNT

50-235  
219

2066

CHECK  
AMOUNT

PAY Five Hundred Dollars and 00/100 DOLLARS  
DATE 10-20-99 TO THE ORDER OF Town of New Windsor DESCRIPTION Escrow Deposit CHECK NO. 2066

\$ 500.00



NEW WINDSOR, NY 12553

Jean Palumbo

ZBA #99-36. 002066 021902352 6800615052

SECURITY FEATURES: MICRO PRINT BORDERS - COLORED BRICK PATTERN - WATERMARK & CARBON STRIP ON REVERSE SIDE - DIE-CUT FEATURE INDICATES AUTHORITY

HEADS, HANDS AND HEARTS, INC.  
271 QUASSAICK AVE.  
NEW WINDSOR, NY 12553  
(914) 562-3711

DATE	INVOICE	AMOUNT

50-235  
219

2067

CHECK  
AMOUNT

PAY One Hundred Fifty and 00/100 DOLLARS  
DATE 10-20-99 TO THE ORDER OF Town of New Windsor DESCRIPTION ZBA application fee CHECK NO. 2067

\$ 150.00



NEW WINDSOR, NY 12553

Jean Palumbo

ZBA #99-36 002067 021902352 6800615052

SECURITY FEATURES: MICRO PRINT BORDERS - COLORED BRICK PATTERN - WATERMARK & CARBON STRIP ON REVERSE SIDE - DIE-CUT FEATURE INDICATES AUTHORITY

Date 11/17/99, 19.....

# TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

TO ..... Frances Roth  
168 N. Drury Lane  
Newburgh, N.Y. 12550 ..... DR.

DATE			CLAIMED	ALLOWED
11/8/99		Zoning Board Mtg	75 00	
		Misc - 2		
		Duffer's - 5		
		Boss - 10		
		Aldridge - 4		
		H-Z Development - 4		
		Maurice - 12		
		Windsor Academy - 3	180 00	
		40		
			255 00	

DECISION - WINDSOR ACADEMY (FROM 10/25/99 MEETING)

MR. NUGENT: We have two items left, one is the decision of Windsor Academy.

MR. KRIEGER: Entertain a motion to take it off the table.

MR. TORLEY: I move we bring this application off the table and open for consideration.

MR. KANE: Second the motion.

ROLL CALL

MR. TORLEY	AYE
MR. KANE	AYE
MR. REIS	AYE
MR. NUGENT	AYE

MR. KRIEGER: Now you can debate it, do whatever you're going to do.

MS. BARNHART: How about a decision?

MR. TORLEY: Do you have anything you want to ask?

MR. KANE: No, I read the minutes and remember the preliminary. The public hearing is closed?

MS. BARNHART: No, you left it open to this meeting.

MR. NUGENT: Would you like to speak any further?

MR. ANTHONY PENESSE: My name again is Anthony Penesse, I'm a bordering neighbor and I still object to what decision is going to be, well, I still object to their request.

MS. BARNHART: It's so noted, thank you.

MR. NUGENT: One of the things that was brought up at the, I'm closing the public hearing now, I'm opening it back up to the board, one of the things that was noted in the discussion was a possibility of additional

shrubbery or screening between two properties because of the car lights in the morning and at night, now especially this time of year. I'm sure that that could be addressed if we so felt that it was necessary. Are there any other questions or comments?

MR. KANE: I think the screening is necessary for the neighbors, if this was to be approved, that they put a little bit more screening so they have, you know, a little bit more peace of mind, although the applicants do have a right to use their property in a commercial fashion in a commercial zone.

MR. TORLEY: Is that within our purview?

MR. KRIEGER: Yes, you can attach reasonable conditions, that is a reasonable condition, yes.

MR. NUGENT: Is there anything else?

MR. REIS: Should we make that interpretation, should we spell that out as far as trees or stockade fence or--

MR. BABCOCK: This applicant, keep in mind this applicant has to go back to the planning board for their final approval.

MR. NUGENT: That is an issue that they'd address.

MR. BABCOCK: If you feel, I think maybe you should spell out where you might want it and maybe the planning board would make the decision, they have screening partial there now, so I'm sure they'd be consistent in what they put up there.

MR. NUGENT: Right.

MR. TORLEY: In that case, entertain a motion?

MR. NUGENT: Yes, I will.

MR. TORLEY: Mr. Chairman, I move we grant Windsor Academy their requested variances with the provision that adequate screening be in, adequate and additional

November 8, 1999

39

screening be in placed along the border with their neighbors for light control and sound control as we're sure the planning board will consider.

MR. KANE: Second the motion.

ROLL CALL

MR. TORLEY	AYE
MR. KANE	AYE
MR. REIS	AYE
MR. NUGENT	AYE

TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

# 99-36

Date: 9/10/99

I. Applicant Information:

- (a) Meads, Hands & Hearts, Inc. 271 Quassaick Ave, New Windsor 562-3711  
(Name, address and phone of Applicant) (Owner)
- (b) \_\_\_\_\_  
(Name, address and phone of purchaser or lessee)
- (c) Mark Krohn, Jacobowitz & Gubits, POB 367, 158 Orange Ave, Walden 778-2121  
(Name, address and phone of attorney) 12586
- (d) Marshall Rosenblum, 3211 Route 9W, New Windsor, NY 562-0270  
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- ( ) Use Variance ( ) Sign Variance
- (X) Area Variance ( ) Interpretation

III. Property Information:

- (a) NC 271 Quassaick Ave. 40-3-37 1.148 AC  
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? R5
- (c) Is a pending sale or lease subject to ZBA approval of this application? na
- (d) When was property purchased by present owner? 4/96 (incorp 9/97)
- (e) Has property been subdivided previously? n/a
- (f) Has property been subject of variance previously? 8/10/81  
If so, when? -
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? na
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IV. Use Variance.

- (a) Use Variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_, to allow:  
(Describe proposal) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes \_\_\_\_\_ No x.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Bulk Regs., Col. F, G, L.  
[existing private school]

Requirements		Proposed or Available	Variance Request
Min. Lot Area	<u>20AC</u>	<u>1.1478 AC</u>	<u>existing</u>
Min. Lot Width	<u>300'</u>	<u>200'</u>	<u>existing</u>
Reqd. Front Yd.	<u>100'</u>	<u>103'</u>	
Reqd. Side Yd.	<u>100/200'</u>	<u>15' (@ modular)</u> <u>49.86/99.99'</u>	<u>existing 85'</u>
Reqd. Rear Yd.	<u>100'</u>	<u>15' (@ modular)</u> <u>+/-97'</u>	<u>existing 85'</u>
Reqd. Street Frontage*	<u>100'</u>	<u>200'</u>	<u>existing</u>
Max. Bldg. Hgt.			
Min. Floor Area*			
Dev. Coverage*	<u>20</u> %	<u>24.18</u> %	<u>4.18</u> %
Floor Area Ratio**			
Parking Area		<u>22 spaces</u>	<u>existing</u>

\* Residential Districts only

\*\* No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(You may attach additional paperwork if more space is needed)

VI. Sign Variance:

(a) Variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs.,

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign ..	_____	_____	_____
Sign 3	_____	_____	_____
Sign	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

\_\_\_\_\_

\_\_\_\_\_

VII. Interpretation.

(a) Interpretation requested of New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_.

(b) Describe in detail the proposal before the Board:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or



upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

The intent of this Application is for continued use of the modular classroom  
The addition of a stockade type fence to the north side of rear  
Play area; separating Mr. Pennisse's rear yard area; has been  
discussed as acceptable to him.

IX. Attachments required:

- ☒ Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- ☒ Copy of tax map showing adjacent properties.
- ☒ n/a Copy of contract of sale, lease or franchise agreement.
- ☒ Copy of deed and title policy.
- ☒ Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- ☒ Copy(ies) of sign(s) with dimensions and location.
- ☒ Two (2) checks, one in the amount of \$ 150.00 and the second check in the amount of \$ 500.00, each payable to the TOWN OF NEW WINDSOR.
- ☒ Photographs of existing premises from several angles.

X. Affidavit.

Date: Sept. 10, 1999.

STATE OF NEW YORK )  
 ) SS.:  
 COUNTY OF ORANGE )

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

John Puriotta  
 (Applicant)

Sworn to before me this

10<sup>th</sup> day of September, 1999  
Patricia A. Barnhart

XI. ZBA Action:

(a) Public Hearing date: \_\_\_\_\_

PATRICIA A. BARNHART  
 Notary Public, State of New York  
 No. 01BA4904434  
 Qualified in Orange County  
 Commission Expires August 31, 10 2001

(b) Variance: Granted (\_\_\_\_) Denied (\_\_\_\_)

(c) Restrictions or conditions: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

PUBLIC NOTICE OF HEARING  
ZONING BOARD OF APPEALS  
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 36

Request of Windsor Academy

for a VARIANCE of the Zoning Local Law to Permit:

Existing modular classrooms w/ insufficient side yard,  
total sideyard, rear yard & more of the allowable developmental  
coverage;  
being a VARIANCE of Section 48-12 - Table of Use/Bulk Regs. - Cols. F, G & L

for property situated as follows:

221 Quassaick Avenue, New Windsor, N.Y.

known and designated as tax map Section 40, Blk. 3, Lot 37.

SAID HEARING will take place on the 25<sup>th</sup> day of October, 1999, at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 o'clock P.M.

James Nugent.  
Chairman

DATE		CLAIMED	ALLOWED
8/9/99	Zoning Board Mtg	75.00	
	Misc - 2		
	Fox - 1		
	Ronald's - 4		
	Windsor Academy - 15	67.50	
	Wolf - 6		
	Kadian - 2		
	Barbera - 3		
	Gannon - 2		
	Clement - 2	166.50	
	<u>37</u>	<u>241.50</u>	

WINDSOR ACADEMY

MR. NUGENT: Referred by Planning board for use variance or interpretation, plus 85 ft. side yard, 139 ft. 8 in. total side yard, 85 ft. rear yard and 4.18% developmental coverage to allow modular trailers to be used on permanent basis for classrooms on east side Quassaick Avenue in an NC zone.

Mr. Marshall Rosenblum appeared before the board for this proposal.

MR. ROSENBLUM: Good evening, my name is Marshall Rosenblum, I'm here representing Windsor Academy. What we're here at the zoning board for is to make the two modular classroom units permanent as part of the permanent site plan approval. This is one of the most difficult applications, one of the most difficult representations I have ever had to make and I will explain. The original application which was not by me, I have only been involved at this phase of it was for three modular classroom units to be used as a temporary six months and by reading through the minutes, extendible provision for the construction or reconstruction of the existing Windsor Academy formally ABC Learning Center building which they have owned since '97, actually '96 a corporation took over in '97 for a four story building. During this process, an application for evaluation was made by Bobby Rogers and subsequently included in the minutes in the July, '98 notice indicating significant concerns of being able to construct this within New York State Building Code without I will call it extraordinary measures or substantial variances. Perhaps, Mr. Babcock, if needed, could clarify those issues. Somehow, these conditions were not translated to the owners, they didn't understand what would be involved. This is a Type, as an architect, Type 5 building, wood frame building, to construct a multi-story building, these were, this building which was originally two houses in the early to mid '70's were connected with a hallway in between them and the bottom dug out to increase the ceiling height. They have residential footings, residential construction, and is not appropriate from the footings up for a multi-story building, enclosed

entranceways, fire resistive construction or loading, very difficult building. If the variances were granted, it would be a miracle, it's very difficult to grant a variance for a condition you're creating for yourself that doesn't exist at the current time, there's no rationale. The modular classroom units, two of which had been placed are permanent by any standard, they are on foundations, they are A. G.E. modular classrooms and they are good units. They have spent over \$100,000 in permanent walkways supplemented by another drawing which I believe is in the file, but I don't have a copy of at this time, I don't believe, I don't know if it's in your file and they have attempted to keep the property in good condition and continually improve the use. In addition, the neighbors are, I will say pleased with the way they have been running the property, the former objection of Mr. Ponesse by verbal discussion, he was concerned about the noise, if they put up a stockade fence anywhere within the property, he would be happy. And so that would be indicated on our application. It's a pre-existing school, been a school for a number of years, the current zoning of course is for a 20 acre site with setbacks. The buildings were intended as temporary, but extendible and for all intents and purposes, they'd like to keep them, there are two classrooms in each of the modular units and you're welcome to visit the site. If I can answer any questions?

MR. NUGENT: You're not adding anymore? They want to get the two that are there?

MR. ROSENBLUM: That's it, any of the properties adjacent that would become available that would open up additional play area and increase access for the fire department.

MR. TORLEY: I noted from the minutes from the planning board I received there was some discussion as to whether or not the appropriate area for staging and evacuation of children?

MR. ROSENBLUM: What that was was a review by the department of the oldest site plan which was in effect existing condition that had already been accepted by

the building department, fire department, as it existed, in other words, somebody reviewed the plan and made the comment that they felt it should be additional evacuation staging area. To continue, this is Phase 1 of a site plan and has not been made permanent, the permanent site plan would have been for the multi-story building, therefore, upon acceptance of or upon any kind of relief for the conditions of the zoning and application for a permanent site plan would be made. This has been of course forwarded already to the planning board and appropriately rejected and referred here.

MR. NUGENT: One of the things that's brought up on the meeting schedule here says 4.18 developmental coverage, why was that brought up? You can have 20 percent on that lot. Is this considered a private school?

MR. BABCOCK: Yes.

MR. ROSENBLUM: I believe it was brought up in Mark Edsall's notes of 8 July, 1998 where he said with regard to the permanent site plan, the appropriate step would be to seek a site developmental coverage variance and on that basis--

MR. BABCOCK: Well, we're using the NC zone to make these determinations and you're allowed a 20 percent developmental coverage.

MR. NUGENT: On 20 acres.

MR. BABCOCK: Well, no, you're allowed, well, yeah, if you had 20 acres, the way I look at that is that you're allowed 20 percent of whatever you have now, maybe that's not the case, but that's up to this board to determine.

MR. REIS: That's your interpretation?

MR. BABCOCK: Right.

MR. KRIEGER: Developmental coverage and the number of acres is two separate questions.

MR. BABCOCK: Absolutely.

MR. KRIEGER: Twenty percent of what you have, but as a separate matter, you're supposed to have 20 acres, they are not tied.

MR. BABCOCK: You don't get your developmental coverage.

MR. KRIEGER: It's not one acre.

MR. BABCOCK: It's not what the zone's requirement is, it's the size of your lot.

MR. NUGENT: What's the size of the lot total?

MR. ROSENBLUM: It's 1.15.

MR. TORLEY: Shouldn't there be an area, a lot area variance request as well or they already had one granted?

MR. ROSENBLUM: It's grandfathered.

MR. NUGENT: It's in the correct zone.

MR. TORLEY: Yeah, but the zone says private school, that's supposed to be 20 acres.

MR. BABCOCK: Well, yeah, this private school has been there since.

MS. BARNHART: They got a variance previously.

MR. BABCOCK: We have known it has been there, what we're looking at in my opinion today is that since he's adding to this, what's the addition of the units and so on and so forth, to the property, the use has always been there.

MR. TORLEY: How long has it been a private school?

MR. ROSENBLUM: Long time.

MS. BARNHART: If you want, I can bring out the old



paperwork.

MR. TORLEY: No problem, just want to make sure that you don't have to do it again.

MR. ROSENBLUM: I think it's always been a private school since the '70's.

MR. TORLEY: It would just be another line in the variance request.

MR. ROSENBLUM: I would note that this has been in operation with two modular units about a year, ten months.

MR. BABCOCK: Right. You know, whatever, I'm sure I have no objection, whatever the board feels this is not the normal situation.

MR. NUGENT: By far.

MR. TORLEY: I want to make sure we have it all covered so you won't be snake bitten later on.

MR. ROSENBLUM: Landscaping as shown has been placed and maintained.

MR. NUGENT: Well, they certainly improved the site, it was an eyesore before they took it over.

MR. KANE: What's the use of the interpretation?

MR. KRIEGER: Use variance I understand, but what's to be interpreted?

MR. NUGENT: It's an NC zone.

MR. TORLEY: Why does he need a use variance?

MR. NUGENT: That's allowed NC zone.

MR. KANE: Right.

MR. BABCOCK: No, if you read the bulk tables, what the bulk tables say is under special permit of the planning

board, they are allowed these trailers on a temporary six month basis, so for them to keep them, and again, it's not the normal thing that happens every day for them to keep the trailers there forever, we're saying they need a use variance cause they don't meet the code.

MR. ROSENBLUM: They are not really trailers, they are fully constructed buildings on foundations, brought in as modular units.

MR. BABCOCK: I may be using the wrong word.

MR. KRIEGER: That may be the subject for interpretation, are we dealing with trailers or with buildings, in which case, let's suppose for argument's sake that they are buildings, do they need another kind of variance for more than one building on a lot?

MR. KANE: They need a lot.

MR. BABCOCK: No, you could do that, you can have multiple buildings on one site, that's not a problem, as long as you meet the setbacks, you know what, I think what we understood is they came in as temporary mobile units, okay, although they were put on permanent foundations, they didn't have to be, and they were brought in under the section of the code for temporary six months basis. So we continued that in our minds saying that now if you want to make these permanent structures or consider them as permanent structures, that's what you need.

MR. KRIEGER: So that's the interpretation part?

MR. BABCOCK: I guess.

MR. TORLEY: Is there a definition in our code?

MR. BABCOCK: No, I think what it is Andy is that we're saying that it's a use variance or interpretation, so you may interpret that they don't need that use variance because these are buildings or whatever you might decide.

MR. KRIEGER: If they say they are buildings, you don't need a use variance. If they say they are trailers, then it does need a use variance. That's the interpretation question for us and then you have--and that's either or, then you have the other package of area variances.

MR. REIS: Right, these folks that owned the property, their original intent was to expand the original building to make it a second full second story and because of its structural deficiencies, they can't do that, it's economically impossible.

MR. BABCOCK: Building code wise, it's not possible, we believe from the building department that they cannot do that. They had a representative that believed that at the beginning that it was possible and all along, we have told them from the building department and fire inspector's office that we don't believe it's possible and there's an avenue you can go to the state and get a variance but this is so far from the code and we're not dealing, we're dealing with little kids that are in a building, God forbid if there's a problem in that building, we need to get them out and we don't think that it's possible.

MR. TORLEY: Four story wooden structure.

MR. BABCOCK: That's what we're saying.

MR. ROSENBLUM: The other is that a four story building in this area would be in a departure to the proportion of the buildings around it, especially the residences and from an architectural planning standpoint would seem grossly inappropriate. This sits well on the site, if you have seen the photographs, they seem to function as buffers and they work well.

MR. REIS: Has there been any communication from the surrounding homeowners on the building?

MR. BABCOCK: I think throughout the process, they showed interest, but quite honestly, we had the one gentleman that he talked about he had requested some additional shrubbery which they put in. Now I

understand he's requesting some fencing that they are willing to put in.

MR. ROSENBLUM: We offered, cause his only complaint was some ambient noise where children are playing during the day.

MR. BABCOCK: Other than that, I don't, but I know that at the public hearings that we had the people in the neighborhood, we're told that they were temporary trailers until they got the construction done. So they may have a different point or they may not have a problem at all. They definitely know more about the operation than they did before the units went in, that's for sure.

MR. TORLEY: Mike, I don't know the code as well as you did, obviously, is there a definition for trailer in the code?

MR. KANE: Under be number 6 trailers for business office?

MR. TORLEY: No, no, defining what a trailer is.

MR. BABCOCK: Typically, what a trailer is is if the frame and wheels stay there. A modular is when the frame and wheels leave.

MR. ROSENBLUM: Never had wheels.

MR. TORLEY: So these really are what?

MR. BABCOCK: These are called modular units, I made a mistake when I said, you know, I used the wrong word, they are a modular units.

MR. KANE: So the interpretation will come down that they are modular units and we're looking at them as existing buildings and not as a trailer which because forget a use, there's no way.

MR. TORLEY: I wanted to check with Mike about what the code said, and if they are not meeting that, they are just modular buildings brought in as a unit and put on

the foundation, to me, they are a building that's saying that now waiting for the public hearing and the full information.

MR. BABCOCK: This is not the normal thing, if you look down the one column, column A, you get uses permitted by right. When you go down to column B, doesn't say use permitted by right, it says by special permit, then it goes on to tell you that these units can be there for six months, that's it.

MR. KANE: If they are considered a trailer.

MR. BABCOCK: No, no, well but there's no place in column A for, you know what I mean, that's the problem, so once you put them in the classification, the classification doesn't go along with it 100 percent, that's where the problem comes in.

MR. REIS: The existing site the way it is right now is the way they'd like to continue their operations?

MR. ROSENBLUM: With the addition of a stockade fence to secure additional sound control to the neighbors, Mr. Ponesse.

MR. REIS: Everything else would remain the same?

MR. ROSENBLUM: They did complete the paving in the front, it's about I'd say this whole area has been done, they have been doing it in phases as dollars permit, but they have been putting the money back into the play area over here and into the landscaping over on the side so there'd be some additional paving done in front.

MR. REIS: Does this impact the parking?

MR. BABCOCK: Yeah, it went in for site plan review of the whole thing with the additions and these modular units, they did Phase 1 and Phase 2, Phase 1 was to get the temporary units in, Phase 2 was to put the addition on the building and redo the parking lot based on that, they are not going to need, they may need all the parking lot, I don't know, but they shouldn't need all

the parking lot because they are not going to build a four story building.

MR. ROSENBLUM: Parking functions for staff and parents coming in to pick up young children, like I said, but functioning well without incident or difficulty for almost a year now, the school buses pull in to this area, let the children off on the side facing the school and pull out. Other buses use it as a turnaround, seems to function well.

MR. KANE: I just want to be clear on how we're going to attack this under private schools, colleges, et cetera, that's with the Planning Board's permission, also, the trailers are under B with the six month thing. If we interpret that the trailers are not trailers, but buildings themselves, that's the interpretation we either give or not give at the public hearing, so that's how we attack that phase. If they are considered regular buildings, what type of variances are we going to need for the buildings?

MR. NUGENT: Setbacks.

MR. KANE: What about developmental coverage?

MR. BABCOCK: That's part of it.

MR. NUGENT: One triggers the other.

MR. KANE: So then it's the setbacks that we need so he knows in the public hearing what he has to present?

MR. TORLEY: And further possibilities, one, whether there's a variance grandfathered for the lot size overall which is not 20 acres and two, be prepared to talk about whether or not you need a parking variance, the new code shows for schools you need one per 12 seats for students.

MR. BABCOCK: Again, that's where the problem comes in, I think you need to go first step find out where, what line item are we putting him in cause if you take it out of the temporary use, the 20 acres goes away, but maybe the parking comes back.

MR. ROSENBLUM: The parking was developed on the basis of the 250 student enrollment with 21 spaces which they have 22.

MR. TORLEY: Just wanted to make sure.

MR. ROSENBLUM: Should something change.

MR. TORLEY: We want to make sure we have everything for the public hearing.

MR. KANE: It says trailers are permitted by special permit of the planning board, not exceeding six months duration. We, as the zoning board, can vary that and extend that to a permanent situation on the trailers.

MR. REIS: Well, we're not going to call them trailers.

MR. KANE: So that goes away.

MR. KRIEGER: If you call them trailers, no, you continue to do that, but if you don't call them trailers, the whole thing is moot.

MR. TORLEY: Then you're down to line 6.

MR. KANE: At the public hearing, can we make a variation for what he needs as far as--

MR. BABCOCK: I think if we're changing something, I mean, we're here, we got here tonight, but what we feel we should write down if this board feels that something should be changed, we'll change it now before he sends out his hearings and whatever.

MR. TORLEY: My suggestion would be that you have done the right thing by asking for the interpretation as to whether or not the structures that are there they were brought in temporarily, whether they count as trailers or permanent structures.

MR. KANE: That we have to make a decision on in the public meeting.

MR. TORLEY: Second, if that then is made a decision that they are in fact permanent structures, then we're on row 6 all the way across with all the lot area variances.

MR. KANE: Does that have to be what he's requesting, does that have to be posed beforehand? Do we have to make, if those are buildings and he needs line variances, okay, coming back, we won't be able to determine that he needs those until we make a public hearing.

MR. TORLEY: We've done that in the past, somebody coming in for interpretation and/or a use variance, if he doesn't make the interpretation, so you can put, and I gather we're permitted to have that kind of setup in a public hearing?

MR. KRIEGER: Yes.

MS. BARNHART: If it's an interpretation.

MR. NUGENT: We can have it.

MR. KANE: Just want to be clear.

MR. ROSENBLUM: For information, the setbacks are 15 feet from the property line and in the photographs you'll see I have taken pictures from both directions to the neighborhood properties, the parking lot on this side and then the fence over here.

MR. KANE: Yeah, I know the site very well.

MR. REIS: Accept a motion?

MR. NUGENT: Yeah, just if we went over the bulk tables on line 6, I don't think he can meet any of them.

MR. KANE: No, he can't, he needs everything all the way across the line.

MS. BARNHART: Why don't you go ahead and make up a new notice of disapproval, get it over to me and Marshall and then we'll go from there.



MR. BABCOCK: Sure, sure, I'd be more than happy to.

MR. ROSENBLUM: It's a grandfathered condition by the sight but wouldn't meet any of the other requirements, hundred foot rear yard.

MR. REIS: I was going to make a motion that we set up the applicant, we make an interpretation now if that's acceptable by law that we make an interpretation that the buildings are permanent structures.

MS. BARNHART: We can't do that tonight, we have to have a public hearing to do that.

MR. KANE: Got to be a notified public hearing.

MS. BARNHART: Just set him up for a public hearing.

MR. TORLEY: Public hearing on the interpretation of the building structure, whether or not the building are temporary.

MS. BARNHART: Just set him up for the public hearing and have the building inspector give us--

MR. TORLEY: We have to get something.

MS. BARNHART: We're going to get the amended Notice of Denial for all the information we need.

MR. TORLEY: Is that sufficient, Andy?

MR. KRIEGER: Yes.

MR. BABCOCK: But this board wants me to use B6 all the the way across and whatever he doesn't need, he needs a variance, is that what you're saying?

MR. TORLEY: Yes.

MR. BABCOCK: So he needs a lot area variance, he needs front yards, he needs rear yards and everything.

MR. NUGENT: Everything doesn't fit any of them.

MR. TORLEY: Unless he wants to make a case that he's grandfathered in as far as a school.

MR. KANE: He's grandfathered as far as the main building, but not as far as the newer structures.

MR. TORLEY: That covers a lot of area.

MR. REIS: We'd like to cooperate but you're tough.

MR. TORLEY: We're trying to make sure you're covered.

MS. BARNHART: Mike, why don't you get together with Mr. Rosenblum.

MR. BABCOCK: We've gotten together, that's how we came up with this and based on just trying to figure something out in the best interest of everybody so that everybody is covered, this is what we thought we would come up with, but I want to bring another one back to the board, but I just need a little guidance from the board what they want to see if you want to see--

MR. NUGENT: It's going to look so outrageous, I don't know how we're go to do that.

MR. BABCOCK: Exactly the problem I have.

MR. NUGENT: What you have down there is not really all that bad.

MR. TORLEY: No, it's nice from the roadway.

MR. KANE: Is that going to cause any problems with these buildings in the future?

MR. NUGENT: I think not, as long as we interpret that the buildings aren't permanent.

MR. TORLEY: Are or are not?

MR. NUGENT: Are. If we say that the buildings are permanent, that's what our interpretation is going to be, then the numbers that are on the sheet here don't

August 9, 1999

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look all that bad, I mean 85 foot side yard, that's a little heavy.

MR. KANE: Okay, Larry.

MR. TORLEY: It's Mike's motion.

MR. NUGENT: I'll accept a motion.

MR. REIS: Do you want to include in there we can't make an interpretation right now.

MS. BARNHART: No, don't put anything in, just set it up.

MR. REIS: I make a motion that we set up Windsor Academy for a public hearing to discuss and interpret their required variances.

MR. TORLEY: Second it.

ROLL CALL

MR. REIS	AYE
MR. TORLEY	AYE
MR. KANE	AYE
MR. NUGENT	AYE

cc: file  
cc: Marshall  
Rosenblum

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR

-----x  
In the Matter of the Application of  
JOANNE S. DENISAR and THELMA D. MOULTON

AMENDED  
DECISION GRANTING  
USE VARIANCE.

#81-13.  
-----x

WHEREAS, JOANNE S. DENISAR, contract purchaser, of 26 Spring Rock Road, New Windsor, N. Y. and THELMA D. MOULTON, owner of property located at 271 Quassaick Avenue, New Windsor, N. Y., hereby make application for a use variance to operate a nursery school and residence in an NC (neighborhood commercial) zone; and

WHEREAS, a public hearing was held on the 8th day of June, 1981 at the Town Hall, 555 Union Avenue, New Windsor, New York; and

WHEREAS, applicant, JOANNE S. DENISAR, was represented by Jerald Fiedelholtz, Esq. of 270 Quassaick Avenue, New Windsor, N. Y.; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings of fact in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence shows that applicant, JOANNE S. DENISAR, is the contract purchaser of a certain parcel of property located at 271 Quassaick Avenue in an NC zone; the same property is owned by applicant, THELMA D. MOULTON. The property in question contains a professional building which has been vacant since its construction 9 years ago.

3. The evidence shows that the applicant, DENISAR, intends

to operate a nursery school on the premises and reside on the second floor of the building.

4. The evidence presented to the Board indicated that this property has been on the real estate market for the past 9 years but has not been used for the purposes for which it was constructed.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings of law in this matter:

1. There is an indication of hardship to the land since the property has been vacant for the past 9 years.

2. The evidence indicates that the plight of the applicant is due to unique circumstances and not to general conditions suffered by other persons within the zone.

3. The evidence shows that the application as presented does not alter the essential character of the neighborhood.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor grants a use variance as applied for with the following restrictions:

1. Ingress and egress signs be erected at the point of traffic flow onto Route 94.

2. Hours of operation be from 8 a.m. to 5:30 p.m.

3. Age limit for children: From 3 mos. to 6 years. (Rev.: 5/83)

BE IT FURTHER,

RESOLVED that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and the applicant.

Dated: August 10, 1981.

Revised: May 23, 1983.

  
Chairman

**ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR  
COUNTY OF ORANGE : STATE OF NEW YORK**

**In the Matter of the Application for Variance of**

**AFFIDAVIT OF  
SERVICE BY  
MAIL**

Windsor Academy Applicant.  
# 99-36.

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ORANGE)

**PATRICIA A. BARNHART, being duly sworn, deposes and says:**

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, Windsor, N. Y. 12553.

That on Oct 1, 1999, I compared the SS addressed envelopes containing the Public Hearing Notice pertinent to this case with the certified list provided by the Assessor regarding the above application for a variance and I find that the addresses are identical to the list received. I then mailed the envelopes in a U.S. Depository within the Town of New Windsor.

Patricia A. Barnhart  
Patricia A. Barnhart

Sworn to before me this  
1st day of October, 1999.

Deborah Green  
Notary Public

**DEBORAH GREEN**  
**Notary Public, State of New York**  
**Qualified in Orange County**  
**# 4984065**  
**Commission Expires July 15, 2001**

BRUNO BROTHERS AUTOMOTIVE  
262 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

(55)  
ANTHONY J BILLESIMO JR &  
KATHLEEN D HEDLUND  
46 CROSS STREET  
NEW WINDSOR, NY 12553

ANTHONY J & VIRGINIA MARTINI  
26 CROSS STREET  
NEW WINDSOR, NY 12553

266 QUASSAICK ASSOCIATES LLC  
2 HEARTHSTONE WAY  
NEW WINDSOR, NY 12553

KEVIN M & LINDA R MCCAFFREY  
44 CROSS STREET  
NEW WINDSOR, NY 12553

MICHAEL H & BARBARA M  
MCNALLY  
8 LILLIAN PLACE  
NEW WINDSOR, NY 12553

JERALD & RACHEL FIEDELHOLTZ  
59 BEATTIE ROAD  
WASHINGTONVILLE, NY 10992

JOSEPH S & HELEN M MILLER  
40 CROSS STREET  
NEW WINDSOR, NY 12553

STEWART D'ANGELA  
43 CROSS STREET  
NEW WINDSOR, NY 12553

JOHN F CARPENTER  
277 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

SALVATORE C & SALVATRICE A  
COCCHIA  
9 LILLIAN PLACE  
NEW WINDSOR, NY 12553

CONSTANCE L HANNA  
5 JAY STREET  
NEW WINDSOR, NY 12553

ANGELO & NAOMI POLIOTTI  
276 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

HOLGER C & EVELYN M HOLT  
32 CROSS STREET  
NEW WINDSOR, NY 12553

ANN M COUTURIER  
251 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

ANTHONY ETAL PACIONE  
278 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

WILLIAM & EVELYN S LAMPACK  
34 CROSS STREET  
NEW WINDSOR, NY 12553

ALFONSO & RITA MARIE TERRASI  
280 QUASSAICK AVENUE  
NEWBURGH, NY 12550

GEORGE C & MILDRED L  
DITTBRENNER  
36 CROSS STREET  
NEW WINDSOR, NY 12553

HERMINIO & ZELANDIA  
MALDONADO  
282 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

RUSSELL T & REGINA GANDT  
38 CROSS STREET  
NEW WINDSOR, NY 12553

ANNA VANAKIS  
284 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

TERRY L LANGLOIS  
22 CROSS STREET  
NEW WINDSOR, NY 12553

WINDSHIRE VILLAGE  
MANAGEMENT OFFICE  
256 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

JOSEPH & CARMELA BORDONARO  
24 CROSS STREET  
NEW WINDSOR, NY 12553

MILDRED DUVAL  
8 JAY STREET  
NEW WINDSOR, NY 12553

VIRGINIA CIMORELLI  
25 CROSS STREET  
NEW WINDSOR, NY 12553

GUT HOLDING INC  
277 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

JAMES & ANGELA MCQUADE  
10 JAY STREET  
NEW WINDSOR, NY 12553

JOSE O & IDA BENITEZ  
23 CROSS STREET  
NEW WINDSOR, NY 12553

VINCENT & KARY S TANGREDI  
273 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

ALBERTO & MARIA MALDONADO  
14 JAY STREET  
NEW WINDSOR, NY 12553

MICHAEL A & PAULA M PETRYSSYN  
21 CROSS STREET  
NEW WINDSOR, NY 12553

RICHARD J & RUTH P PENNISI  
265 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

ARTHUR & PEGGY MERVINE  
39 CROSS STREET  
NEW WINDSOR, NY 12553

GEORGE J & JULIA M VECCHIO  
4 SCHOONMAKER DRIVE  
NEW WINDSOR, NY 12553

ANGEL N & MARGARITA NEGRON  
263 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

ANNA PERI  
37 CROSS STREET  
NEW WINDSOR, NY 12553

PATRICK J & GLORIA M DIAMONTI  
6 SCHOONMAKER DRIVE  
NEW WINDSOR, NY 12553

ERIC & JOHN C GRZIBOWSKI  
261 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

JESUS M & JOSEFA HERNANDEZ  
35 CROSS STREET  
NEW WINDSOR, NY 12553

MICHAEL ANGELO &  
HELEN A CRUDELE  
291 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

THOMAS J & ROBYN M MCQUINNNESS  
259 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

MARIE DAVIS  
33 CROSS STREET  
NEW WINDSOR, NY 12553

US DEPT OF HOUSING & URBAN  
DEVELOPMENT  
26 FEDERAL PLAZA  
NEW YORK, NY 10278

FOXWOOD ASSOCIATES  
C/O ANTHONY P COSTA  
1200 STONY BROOK COURT  
NEWBURGH, NY 12550

THOMAS J & JOAN L MCMAHON  
31 CROSS STREET  
NEW WINDSOR, NY 12553

BRIAN W & MADELYN A SMITH  
287 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

LAHEY'S MIDWAY MARKET  
264 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

ANGELO & ANNA M ALESSI  
29 CROSS STREET  
NEW WINDSOR, NY 12553

JAMES A & IRMA L MINARD  
283 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

GRACE S & GUS & DELLA  
DETORO THORPE  
260 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

EDGAR P & ROSE M COPPOLA  
27 CROSS STREET  
NEW WINDSOR, NY 12553

LINDA NILSSON BIG  
279 QUASSAICK AVENUE  
NEW WINDSOR, NY 12553

GEORGE D & HELEN P BLANK  
33 ECHO LANE  
NEWBURGH, NY 12550



Date 10/2/11, 19.....

# TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553**

TO ..... Frances Roth ..... DR.

Frances Roth  
168 N. Drury Lane  
Newburgh, N.Y. 12550

DATE		CLAIMED	ALLOWED
10/20/99	Zoning Board Mtg	75 00	
	Misc. 2		
	Hansen - Doe - 5		
	Quinn - 11		
	Windsor Academy - 18	81.00.	
	<u>36</u>	<u>162 00</u>	
		<u>237 00</u>	

WINDSOR ACADEMY

Mr. Marshall Rosenblum appeared before the board for this proposal.

MR. NUGENT: Request for 85 ft. side yard, 139 ft. 8 in. total side yard, 85 ft. rear yard and 4.18% developmental coverage to allow modular units on a permanent basis for classrooms at 271 Quassaick Avenue in an NC zone. Is there anyone in the audience that would like to speak on this subject? Let the record show there's 55 addressed envelopes sent out.

MR. ROSENBLUM: My name is Marshall Rosenblum, I'm representing Windsor Academy. We're here for variances to maintain the existing modular classrooms as permanent. We have insufficient side yard, total side yard, rear yard and need additional coverage for the allowable developmental area. It's noted that since this project had been established many years ago, the variance requirements have changed to a minimum lot area of 20 acres and the lot width of 300 feet. This site being deficient in both of those areas. The modular units were constructed initially with the view as temporary structures with the goal of increasing the height of the main building to four stories. The impracticability of making that a multi-story building and the view that these modulares could be maintained for an extended period of time, the reality of the multi-story building could be accomplished have created this problem. It is now again our intent to request that these modular classrooms which are fully functional and to the best of my knowledge and belief meet all the requirements of the New York State Building Code have been maintained. The building and the grounds, the play area are functional and have been improved with additional screening, fencing and walkways which I believe were supplementary to this plan with an additional document being submitted to the building department for the walkway areas.

MR. BABCOCK: Yes.

MR. ROSENBLUM: I'll leave it at that.

MR. TORLEY: Mike got by the problem of whether they are trailers? We solved the trailer question?

MR. BABCOCK: Yes, they are not trailers, they are modulars.

MR. NUGENT: And they do meet New York State Building Code?

MR. BABCOCK: Yes, they have C.O.'s on them.

MR. ROSENBLUM: From a planning standpoint, with the play area at the rear yard as a view these serve as buffers to the two adjoining properties as opposed to say a fence or some other structure, they serve a similar function to the properties that are contiguous.

MR. NUGENT: Any questions by the board?

MR. REIS: No, I'm comfortable with this now.

MR. NUGENT: At this time, I'd like to give the people in the audience a chance to come up and look at the drawing and if they have any questions to ask Mr. Rosenblum and then I'll open it up to the public for comment.

(Whereupon, an off-the-record discussion was held.)

MR. NUGENT: At this point, I'd like to open it up to the public, keep your comments brief and try not to be repetitious. Anybody?

MR. ANTYONY PENNISI: My name is Anthony Pennisi and I'd like to voice my disagreement on this. I object to this. And the reason why is I never knew that it was going to be this way. I thought they applied for a nursery school. I thought that that's what it was going to be, I never thought there was going to be this many kids here. Now, of course, to make a long story short, let me go by my notes, I'm not a speaker. I have some pictures here, can I show you that this is what I am viewing from my yard, okay, and now the noise, is general kids' noise, of course.

MR. TORLEY: Where do you live?

MR. PENNISI: I'm a bordering neighbor, I'm where the part of the trees are now, it's becoming wintertime and I'm getting disturbed by lights. I thought the hours of operation were going to be from 7 o'clock, this is what I was told at the beginning from 7 o'clock till 5 o'clock. They start dropping off at 5:30 in the morning and don't get done until 7:30, 8 o'clock at night. Now, you know, they go there and they leave at the end of the day but we're there 24 hours okay. I have no privacy. I object to the modulars because they were supposed to be there six months, then they had an extension put on for another six months and now it's a year and nothing has been started. Their play area is all mulch, I get a lot of dust. The dust is a problem, my mom's allergic, she has an allergy, okay and, you know, this bothers her and it affects our way of life. There are trees that were planted there and when they weren't taken care of, they started to die and they just left them there until somebody was doing some work, they were putting mulch in the play area and that is what the kids play on now, and when they put the mulch in there, that's when I don't know if it's the same company that put the trees down, they took the trees, they weren't replaced, it was empty like that until three days ago, and they put different kind of trees in there. Now, of course, I like these trees better, but they put these trees in there now. I thought that originally, okay, this is what was approved, but my thought was they were going all the way down to the road with the trees. Of course, I had Mike come up and he even went next door and talked to them for me and the approval was to stop where they did stop, so I was wrong on that, okay, but that's what I would like to see because I, as I walk out of my house, all I see is cars facing our property. I see cars going in and out all day long. I see buses going in and out all day long. I hear the noise all day long, you know, what are they saying to me if you don't like it move, you know.

MR. NUGENT: Okay.

MR. PENNISI: And the number of kids there, okay, like I said, in the beginning, I didn't know there was going to be this many. I don't know the total number of kids there, but I thought a nursery school was a nursery school, take care of little kids, this and that, and the two story building they have there and then they come in with the modulars and now it goes up to sixth grade and that's not a nursery school anymore, that's a school.

MR. NUGENT: Yes, it is.

MR. PENNISI: And, you know, why do they have to put a school by my property when you have got them all in New Windsor? You've got three big ones, you don't need another school and this is a private school, okay, so that's where they change the name from ABC Learning Center to Windsor Academy. And another question, is there supposed to be certain amount of play area per child? Are they supposed to allow, does the State do that, do they allow a certain amount of space for a child and are they supposed to be playing on mulch?

MR. NUGENT: I can't answer that, that's out of our realm, that would be, I think it would be governed by the State, right, play area?

MR. ROSENBLUM: For a public school, yes, private schools, no, there are no regulations. There's the Consumer Product Safety Commissioner for recommendations of playground safety.

MR. PENNISI: They could also be going around that area because they can say we'll limit the amount of kids in the grade area, we'll put this many so they can cover themselves there. But I would like to know if I am fighting a losing battle, if I am, I will just leave, you know, I'll leave now, you know, I have, this is my sister, she wants me to speak, you know, like she would, okay, I can't, I don't know how, I just want my voice known, my objections known.

MR. NUGENT: We heard you. We need to let other people talk.

MS. NANCY COHEN: Nancy Cohen. I currently do not reside in New Windsor, I live in St. James, New York. I did grow up in that house and I think the issues that are before us as a family group is that the privacy that was once part of what we had there is gone. In that house right now, you do not have access to your own back yard because there's constant activity with the kids next door, which I do certainly understand and I don't mean to not be a nice neighbor, but I think we need to voice this because this is a residence for the family. There's no real barrier between the two properties, the trees are there, they do not go down, there's constant traffic in and out on the Monday through Friday basis. And so I think the things that as we're looking at this whole issue of the permanency of those modulars, we do strongly voice an objection to having them stay there and I think that we showed you the photographs. I think that there's an issue regarding the play areas and the closeness of the side yard to our yard and basically, that's all I have to say at this point and I think it really needs to be re-looked at.

MR. NUGENT: Thank you.

MRS. COHEN: So I'm going to return the plan, unless Mr. McMahon--

MR. NUGENT: Anyone else like to speak?

MRS. JOAN MCMAHON: Joan McMahon, and I live on the property that adjoins the school to the rear and we have trees and whatnot. And we really are not concerned with the site so far, I am concerned, though, if they were to decide to build another two stores in the future, I think that would be a tremendous eyesore. But I'm concerned, small piece of property, and how you could have so many children in such a small space in the back, those modulars are very large, there's very little land area left, I wonder what has been done as far as fire safety, has this been looked at?

MR. NUGENT: Yes.

MRS. MCMAHON: And the answer is that it is safe?

MR. NUGENT: According to our fire inspectors in the Town of New Windsor, is that right?

MR. BABCOCK: Yes.

MRS. MCMAHON: How many children are in the school, do you know?

MR. NUGENT: No, I don't. Anybody answer that?

MS. RITA EPSTEIN: Rita Epstein, I'm one of the directors, we have 150 children enrolled in the school. At any one time, there are probably no more than about 100, 120 children present on the site cause all our children are not full time students.

MRS. MCMAHON: Well, I just think for a school of that size, the property is much too small.

MR. NUGENT: Anyone else?

MR. MCMAHON: I'm concerned as my wife as to the safety, originally, when we came to the meeting, it was to get our, give the board our impression initially, to the planning board for the modulars. If this matter is to be resolved, is this disregarding the opinion and the concerns and the feelings of the residents around the school, which is why we were sent letters to come here and speak? Okay, I didn't see anyone here that felt favorably about expanding it or putting the modulars, but it was agreed upon by the board six months and then it was agreed upon without our knowledge, without our knowledge another six months, we were not contacted about that, okay, we were not sent a notice. Now we're here because they are requesting that they be permanent and that's their right, well, if it all goes on their right, and it's a legal right, then why ask us to come in and give our opinion about it? Why? We're not, you know, it's not necessary to have us here if legally, they can do it. Why have us here, Jim?

MR. NUGENT: They are here because they are seeking a variance. You are here, they are seeking a variance,

they are going to vary the law or we're going to vary the law, maybe, they are here for a reason. You're here because the state says that they have to have a public hearing and everybody within 500 feet is invited, that's why you're here.

MR. MCMAHON: But we're here for a reason.

MR. NUGENT: We're here to hear your concerns.

MR. MCMAHON: Is the legal question the predominant decision that's made in this matter because we have already expressed our opinion. This is the second time.

MR. KRIEGER: The reason for the public hearing requirement is that the Zoning Board of Appeals hears the public before it decides. The public hearing is not a vote, it's not a question of how many people you can get to show up and raise their hands. The Zoning Board of Appeals, after having heard the public and its concerns may or may not agree with those concerns, but you're here to bring to their attention to something that, some facts that otherwise would not be brought to their attention necessarily if it were only the applicant. The Zoning Board of Appeals never knows when a public hearing is scheduled whether it's going to produce additional information that they should consider before it votes or whether it's not going to produce additional information. But the purpose of the public hearing is to give those people around the proposed development an opportunity to bring to the board's attention some things that the board should consider before it votes. you're just laying before them certain things, your concerns

MR. MCMAHON: Quality of life issues, but the legal issues are resolved, there's no legal barrier to what the school would like to do.

MR. KRIEGER: Well, actually, what the law says is what our law says is they cannot have a permanent structure located as close to the side yard as this is, as close to the rear yard and a total amount of structures covering as much of the property as they want to cover.



When a development is proposed which violates the provisions of the zoning law and I have given you the provisions that are here proposed to be violated, in order for that development to happen now, since they are not entitled as of right, they can't simply go to the building inspector, they have to get permission to have in this case have some of the buildings closer to the side yard, closer to the boundaries that would be allowed to have it cover a greater percentage of the available land than would be allowed, they have to get the permission of the Zoning Board of Appeals to do that, to do those things, actually a number of requests that are made here. They are not entitled as of right, they can't just say that's our right and we'll just apply for the building permit and that's what they have to do, what they propose, they have to be given special permission, that's what they're here for.

MRS. MCMAHON: What exactly would you be considering in order to change the law?

MR. KRIEGER: They are not changing the law, it's whether or not this particular application, the dictates of the law should be varied for this particular piece of property. Changing the law is something the Town Board does.

MRS. MCMAHON: Excuse me.

MR. KRIEGER: The reason I dwell on it is not because of what you said, but because it's a common misconception. The ZBA takes the properties and the applications one at a time, it does not set town wide policy, it does not establish a law for everybody. It just considers individual cases. Now, as far as the criteria that are concerned, the yard sticks that they have to use to measure this, there are five of them set forth in the state law, it's the state law which dictates what the ZBA must do and what criteria they must consider, it must consider. It's not, it isn't sort of a free form anything you want or any opinion, there are specific criteria. And as a matter of fact, I normally do this for applicants, but there is no particular reason why it has to be only applicants, I have set forth these criteria, extracted them from the

law and set them forth on a sheet which I normally provide to applicants, but that's the law and those are the five criteria on which the Zoning Board of Appeals must decide on which it must base its decision, decisions in this case.

MR. MCMAHON: May I ask the present structure is not conducive to building two more stories, is that correct?

MR. ROSENBLUM: It would be extremely impractical and difficult.

MR. MCMAHON: But it can be built upon two more stories, you know, if they wanted to?

MR. ROSENBLUM: Not within my ability.

MR. MCMAHON: It has to be considered, if somebody wanted to go in there and build two more stories, not you, but somebody else.

MR. ROSENBLUM: It's not within a normal, the super structure of two residential units that have been combined to create that building with their normal residential I'll call the trench or formed footing, do not present a suitable load capacity to build on that framework four stories. It's also to my knowledge and belief not permitted within any code that I know of to build four stories out of a wood frame construction, it would necessarily be concrete or steel and predominantly non-combustible with non-combustible fire exits for the protection of the students, inhabitants.

MR. KRIEGER: In other words, could it happen, yes, it could happen. Would it be exorbitantly expensive, yes, it would be, nobody in their right mind would do it.

MR. MCMAHON: The other thing is occasionally, a child finds his way on my property, so that's another consideration to think about occasionally, nothing wrong with it, you know, playground, whatever, but it's a note but the appeal board now does not state, it does not state its feelings one way or another tonight?

MR. NUGENT: It may, it doesn't have to but it may.

MR. KRIEGER: So that I understand as far as the process is concerned. For your own guidance, what the law dictates is even if they should receive their requested variances, before they can do it, they have to have a site plan approval.

MR. MCMAHON: So if the appeals board, if you gentlemen say yes, it's okay, then they go before the planning board, is that correct?

MR. KRIEGER: Yes.

MR. MCMAHON: And the planning board has to give their okay?

MR. KRIEGER: Yes, but they, but understand the planning board, there are different questions and different criteria.

MR. MCMAHON: The initial visit to the planning board was very positive towards the school, I don't think they have changed since then, but the, do you have an opinion this evening that we can know about?

MR. KRIEGER: The zoning board?

MR. MCMAHON: Is there an appeal to your decision, in other words, if you decide it's okay to go ahead in spite of our feelings about it and we say well, we totally disagree with you, do we have any recourse?

MR. KRIEGER: There are, you have asked a number of questions. The procedures for appealing a decision of the Zoning Board of Appeals are legal in nature and my job as an attorney and I am an attorney is to advise the board. I can't tell you, you know, what the procedures are and what the advisability is.

MR. MCMAHON: We'd have to go outside the town to do that?

MR. KRIEGER: You have to get your own attorney, not outside of town, but outside of the room.

MR. MCMAHON: Your decision is final unless we decide to go get an attorney?

MR. KRIEGER: There are procedures under certain circumstances.

MR. MCMAHON: For us in the town process to appeal your decision, there's no way, that's all I want to know, we'd have to go to an attorney to do that?

MR. KRIEGER: Well, you certainly have to go there to be advised, I mean, now you're extending yourself to questions which I cannot properly answer.

MR. MCMAHON: Is there a procedure?

MR. KRIEGER: Yes, there is a procedure.

MR. MCMAHON: Within the town guidelines for a resident to challenge your decision?

MR. KRIEGER: I don't know what necessarily what within the town guidelines means.

MR. MCMAHON: Here I come as a resident, just let me finish, I'm coming as a resident expressing my opinion, the reason I'm here is you sent me a letter, you wanted to know, you wanted feedback from the people that live around the school and I'm giving you my opinion, my wife's giving you, Mr. Pennisi, his mother and sister and if you gentlemen decide everything's okay, that they can receive the variance, before it goes to the planning board, as a resident of this town is a resident able to challenge that decision by you folks, is there a procedure?

MR. KRIEGER: Yes, there is, we're going around in circles, yes, there is a procedure. No, it's not necessarily similar to this and to go beyond that to tell you about what procedures are available and what's advisable, I would be in the position of counseling you which I cannot do.

MR. MCMAHON: So, basically, we cannot go before the

board again before the appeal before now?

MR. KRIEGER: Regardless of what this board decides, this will not appear in front of this board again, whether it will appear in another tribunal or not, I don't know, but it won't appear in this tribunal again.

MR. MCMAHON: Is there any, gentlemen, would you like to express your opinion about this particular issue?

MR. TORLEY: We haven't finished.

MR. NUGENT: We're not finished, I'm waiting for you to finish so we can close the public hearing and open it up back to the board.

MR. MCMAHON: I really appreciate your giving me a chance to speak.

MR. PENNISI: Can I just ask one more question? Can I ask you a question, the variance that you're asking for in the play area, did you already finish the play area?

MR. ROSENBLUM: All we're asking for is relief for the condition to maintain the buildings in operation on a permanent basis. All planning issues, fencing, screening, lighting, anything to that nature is addressed at a planning board meeting. Those are features that can address any site security issues and any site lighting, any other conditions, traffic or extensions, I can't speak for this board, but by my experience with boards often even if the variance is granted, it's granted with recommendations or restraints or conditions.

MR. PENNISI: Thank you.

MS. JEAN POLIANO: We have been sitting here patiently trying to understand--Jean Poliano, Windsor Academy--and we have been trying to do the right thing. We're obviously in the service business, we deal with parents, with children, we want to be as neighborly as possible, we're part of the community, we want to be part of the community and that has never been a problem for us. We're willing to work out a situation with the

neighbors, if we possibly can. But I just want to remind our neighbors that it's a commercial area to begin with, number one. Number two, the school, I don't know the exact history, but has been a school the building itself has been a school for the past 20 years, I'm sure, the only things that seem to be a problem at this point is the modulars which are in the back, the modulars in the back maybe 30 to 35 additional children and that's all we're talking about. Mr. Pennisi, you mentioned about 5:30, we do not open at 5:30 in the morning, we open at 6:45. I don't know where he got his information, we don't close until 6, nobody had, I mean, from a school had mentioned to him that we do close at 5, so our hours of operation are 6:45 in the morning till 6 p.m. and we do accommodate the working parents of a community in order to have extended hours so they don't have a problem with what to do with their children at a certain time when other nursery schools close.

MS. EPSTEIN: Rita Epstein, just one other piece, kind of historically about a year ago, in an effort to make our site as comfortable as possible for our neighbors, when Tony and his mother did request shrubbery at that point, we immediately acquiesced and it is read into the minutes that we will do and we will continue to make the statement, absolutely anything that we need to do to make sure we're as community friendly as possible, that shrubbery is there not because it was legally required, but requested by our neighbors. The reason last year we talked about making a four story building is because we had the wrong information and as you notice, we have a different person now representing us, it was improper information. This is not even a feasible situation. I do want to assure you of that.

MR. PENNISI: But the one thing that I ask about--

MR. NUGENT: I don't want this cross, we can't have that, one at a time.

MRS. COHEN: I'd like to address the modulars and with the issue of identifying that it brings in maybe another additional 30 or 35 children when you look at that, that's quite an increase in the occupancy on that

property and certainly it does cut down on the play area that was available to the children in the past by keeping those modulars there.

MR. NUGENT: Talk to the chair, everybody talks through the chair.

MRS. POLIANO: Yes, we're talking about that, but all the children are not on the playground at the same time, if you're talking about the two modulars opposite, well, what side would that be?

MS. EPSTEIN: Well, depends.

MRS. POLIANO: On the opposite side of Mr. Pennisi, we have infants, now infants, I mean, how often we get them out, they are in strollers and they have nothing to do with the big playground for the older children, so you're talking about infants and toddlers which depending on the whether, they are hardly out. If it's a nice day, we'll take them on the swing for 10, 15 minutes, so I don't consider that an issue, so that's like maybe 20 children they don't even see because they are on the other side. And as I said, they are not all on the playground at the same time. They do have time schedules, recess schedules, we didn't feel that that was safe to have all the children on the playground at the same time, so we do take that into consideration. So then you're down to the one modular with 20 children, that's really what we're talk about here, an additional 20 children. As far as the headlights, Mr. Chairman, the headlights, I mean there's nothing that we possibly can do about it now that, you know, the times have changed, it's darker earlier, parents are considerate enough to stop, turn the lights off, pick up their child and leave but to me, especially on 94 and Quassaick, you've got constant traffic, constant lights going all day, all night, why just the lights coming into our building is a problem, I don't understand. But that's a situation where we can't do much about.

MR. PENNISI: It's the way that it's where they come to pick them up, they come by the front door and they shine into our kitchen. Our kitchen's in the front.

Last year, Mike told me that in order to alleviate that problem, they offered me a shade.

MRS. COHEN: Just one other thing with the addition of the 30 or 35 kids in the back that's additional vehicular traffic that's in and out of that area on a daily basis. And the other thing too looking at this, it's the traffic that this brings in also as we continue this discussion and it has increased tremendously and I do recognize that this is a commercial area, there's a store across the street and between the cars going in there and the cars across the street, there's a lot that's happening at that point and other than that, I have nothing else to say. I think we have to look at the traffic.

MR. NUGENT: Let me just give all of you a little idea of what could go in there legally, eating and drinking places, including professional business, executive, administrative medical and veterinarian officers, service establishments furnishing consumer services, but excluding gas stations can all go in there legally. All right, so you know.

MR. MCMAHON: What I brought up at the planning board meeting, was the value of property and I would think that the same thing would apply to all of these other businesses that would be, that are approvable under your statement about gas, the garage, gas station.

MR. NUGENT: No, that's not allowed.

MR. TORLEY: Dry cleaner.

MR. NUGENT: Veterinarian.

MR. MCMAHON: Restaurant, veterinarian, whatever, but before it would, it would have to go before the planning board and the people that live around it would have to be involved in the decision of the board. Because you're bringing up an issue to me again that I must reply to, it's one of the, you know, if it's a question as far as legality of the concern, why get our input. And I understand the people are trying to be accommodating but, you know, consider the impact on the



value of the real estate around the school and what it means to us as well as quality of life issues. They are building a business and that's how they are living and that's fine for them we have to consider things also.

MRS. COHEN: We're a business, a small business, but we also are providing a service for the community, there are not that many schools, not that many daycare centers in New Windsor that I know of, I mean, maybe two others, so I mean we have to consider the residents, most of them are New Windsor residents that do bring children to our school. So you have both sides of the fence here, you know, if anything happened financially, if we found it would be a burden, I wouldn't know what to do, I think the parents would be concerned too at that point.

MR. PENNISI: And in replying to your statement, we never objected to a nursery school or anything, we never objected to that. Matter of fact, I went along with what they were doing, but we never expected them to be this big, okay, and it puts not only a burden on us, but on everybody else around there. Now we have neighbors that are not direct neighbors, so they don't care as much as we do, their quality of life isn't affected as much as ours is and that's why we're voicing our opinion. Speaking of the traffic, now, you have a lot of traffic down there too, but of course now we have all the movies down here so that too puts additional traffic on there. So, you know, just keep that in mind, they closed the movies in Newburgh now they are all coming into New Windsor so that puts a lot of traffic down there too.

MR. NUGENT: Okay, is there anyone else that would like to speak? The board has, we're going to adjourn the public hearing at this point. The board feels that there's so much evidence that they would like to have the rest of the members here before they take a formal vote so we're just going to adjourn the public hearing until the next meeting. We have to give a date?

MR. KRIEGER: Yes.

MR. PENNISI: Are we going to be notified?

MR. BABCOCK: He's going to tell you the date right now. Should be November 8, Mr. Chairman.

MR. NUGENT: November 8.

MR. TORLEY: I'd like to get one question out just for their records, was there a previous variance for the area on this entire lot?

MR. BABCOCK: No.

MR. TORLEY: Cause are we, this is being considered as a private school?

MR. BABCOCK: Yes.

MR. TORLEY: Because the bulk table says 20 acres.

MR. ROSENBLUM: This existed prior.

MR. KRIEGER: Pre-existing non-conforming.

MR. BABCOCK: We felt that the area was pre-existing non-conforming because it was a daycare center before this.

MR. TORLEY: As long as you have that grandfathered in.

MR. BABCOCK: Also, the lot width and at the time that this went in, the lot width wasn't 300 feet and it wasn't 20 acres, so the zoning has changed since they have been in business or the building's been used as that type of business.

MR. NUGENT: Okay, well, I guess that's as far as we can go tonight, right?

MR. TORLEY: Make a motion we adjourn the public hearing until November 8 meeting.

MR. REIS: Second it.

ROLL CALL

October 25, 1999

35

MR. TORLEY

AYE

MR. REIS

AYE

MR. NUGENT

AYE

Nancy Cohen =

Anthony J. Perrisi - 265 Quessack Ave

Thomas Jean McMahon  
31 Crook St.

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR  
ORANGE COUNTY, NY

*Prelim.*  
*Aug. 9, 1999*  
*#99-360*

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 99-17

DATE: 4 AUG '99

APPLICANT: WINDSOR ACADEMY - (ABC hearing)  
% MARSHALL ROSENBLUM  
3211 ROUTE 9W  
2-0270

NEW WINDSOR, N.Y. 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED JUNE 16, 1999

FOR (~~SUBDIVISION~~ - SITE PLAN)

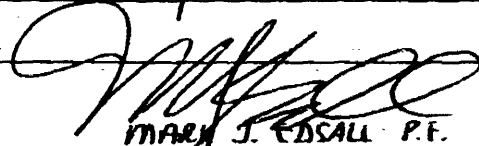
LOCATED AT EAST SIDE QUASSAICK AVE.

ZONE NC

DESCRIPTION OF EXISTING SITE: SEC: 40 BLOCK: 3 LOT: 37

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

- ① USE VARIANCE FOR MODULAR TRAILERS ON PERMANENT BASIS
- ② AREA VARIANCES FOR SIDE YARD TOTAL SIDE YARD AND  
REAR YARD SETBACK.



MARY J. EDGALL P.E.  
MICHAEL BABCOCK,  
BUILDING INSPECTOR

<u>REQUIREMENTS</u>		<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE	<u>NC</u>	USE	<u>B-6</u>
MIN. LOT AREA	<u>20 ACRES</u>	<u>1.1478 AC *</u>	<u>—</u>
MIN. LOT WIDTH	<u>300 FT</u>	<u>200 FT *</u>	<u>—</u>
REQ'D FRONT YD	<u>100 FT</u>	<u>103.69 FT</u>	<u>—</u>
REQ'D SIDE YD.	<u>100 FT</u>	<u>15 FT</u>	<u>85 FT</u>
REQ'D TOTAL SIDE YD.	<u>200 FT</u>	<u>60'-4" FT</u>	<u>139'-8"</u>
REQ'D REAR YD.	<u>100 FT</u>	<u>15 FT</u>	<u>85 FT</u>
REQ'D FRONTAGE	<u>100 FT</u>	<u>200 FT</u>	<u>—</u>
MAX. BLDG. HT.	<u>50 FT</u>	<u>24 FT</u>	<u>—</u>
FLOOR AREA RATIO	<u>N/A</u>	<u>—</u>	<u>—</u>
MIN. LIVABLE AREA	<u>N/A</u>	<u>—</u>	<u>—</u>
DEV. COVERAGE	<u>20 %</u>	<u>24.18 %</u>	<u>+ 4.18 %</u>
O/S PARKING SPACES	<u>21</u>	<u>21</u>	<u>—</u>

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:  
(914-563-4630) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD  
OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

37-1-48 ORDER OF SAINT HELENA AREA VARIANCE GRANTED  
701 BLOOMING GROVE TPK. #86-51 R-4 ZONE 02/23/87

REQUEST FOR AREA VARIANCE TO ALLOW CONSTRUCTION OF 8 FT. FENCE ALONG A PORTION OF THE BOUNDARY LINE OF THE PROPERTY BORDERING ON ROCKY LANE AND BUTTER HILL SUBDIVISION PROPERTY LINE. VARIANCE APPLICATION FEE WAIVED BY ZBA.

37-1-52.2 MALONEY/GIBBER SIGN VARIANCE GRANTED  
405 RT. 94-CARDINAL AUTO PARTS #75-24 NC ZONE 09/08/75

#85-44 - REQUEST OF EPG REALTY CORP. FOR SPECIAL PERMIT TO OPERATE EMERALD GREEN LAUNDROMAT, INC. IN NC ZONE ON ROUTE 94 ADJACENT TO SYCAMORE GARDEN APARTMENTS WITH 20 WASHING MACHINES AND 15 DRYERS TO BE LOCATED AT 407 ROUTE 94.

37-1-53 VSH REALTY, INC. USE/AREA VARIANCE GRANTED  
ROUTE 94/CAESAR'S LANE #75-21B R-4 ZONE 08/25/75

REQUEST TO CONVERT GAS STATION TO STORE FOR RETAIL SALES W/ SALE OF GASOLINE. (GASOLINE SALES IS PRE-EXISTING USE). FRONT YARD VARIANCE REQUIRED FOR CANOPY OVER GAS PUMPS.

#80-6 -

39-5-26 MAXWELL, BRIAN AREA VARIANCE GRANTED ON 05/10/99  
13 HUDSON DRIVE R-4 ZONE #99-8

REQUEST FOR 7 FT. 6 IN. SIDE YARD AND 5 FT. 5 IN. REAR YARD VARIANCE FOR EXISTING SHED AND A 13 FT. REAR YARD VARIANCE FOR AN EXISTING DECK AT 13 HUDSON DRIVE IN R-4 ZONE.

40-3-37 MOULTON, THELMA D./DENISAR, JOANNE S. USE VARIANCES GRANTED: 08/10/81  
271 QUASSAICK AVENUE #81-13 NC ZONE

REQUEST GRANTED FOR USE VARIANCE TO OPERATE A NURSERY SCHOOL AND RESIDENCE IN AN NC ZONE WITH THE FOLLOWING RESTRICTIONS: 1. INGRESS & EGRESS SIGNS BE ERECTED AT POINT OF TRAFFIC FLOW ONTO RT. 94; (2) HOURS OF OPERATION FROM 8 A.M. TO 5:30 P.M.; (3) AGE LIMIT FOR CHILDREN: FROM 3-5 YEARS OF AGE.

05/23/83: REVISION: AGE LIMIT EXTENDED FROM 3-5 YEARS OF AGE TO 3 MOS. TO 6 YEARS OF AGE.

41-3-2.41 LOMARTERE, CHARLES AREA VARIANCE #97-10  
GRANTED

REQUEST FOR 6 FT. REAR YARD VARIANCE TO ALLOW EXISTING SHED WITH LESS THAN MINIMUM REAR YARD ALLOWED IN R-4 ZONE AT 28 JAY STREET. AREA VARIANCE GRANTED ON 04/14/97.

43-1-76 CROSSETTA, JAMES P. R-4 ZONE #98-40 AREA VARIANCES GRANTED 10/26/98  
31 WILLOW LANE

REQUEST GRANTED FOR 35 FT. FRONT YARD VARIANCE FOR EXISTING DECK, 7 FT. SIDE YARD FOR EXISTING HOT TUB, AND VARIATION OF SEC. 48-14A(4) AND 48-14A(1)(b) OF THE SUPPLEMENTAL YARD REGULATIONS FOR EXISTING SHED AT 31 WILLOW LANE IN R-4 ZONE.

44-1-37 OAKWOOD TERRACE HOUSING FENCE-AREA VARIANCE GRANTED 05/11/98  
ROUTE 94 R-5 ZONE #98-12

POSSIBLE Z.B.A. REFERRALS

WINDSOR ACADEMY SITE PLAN & SPECIAL PERMIT (99-17)

Mr. Marshall Rosenblum appeared before the board for this proposal.

MR. PETRO: Temporary classrooms made permanent, they appeared before us prior to this, I believe they need a variance for side yard or front yard or rear yard.

MR. ROSENBLUM: There are a number of conditions of relief, primarily for bulk table requirements, for gross area and side yard that's perceived, but I think we'll leave the specific requirements to the zoning board's interpretation at the time. What I have for the board is a series of current photographs taken another day that will demonstrate the condition of the building, the modular classrooms, I use the word modular, New York State does not recognize temporary structures, these are, as I have said before, permanent. We're here for the referral.

MR. PETRO: Once again, for the edification of the board, I just want to go over the new construction that was proposed at one time for the main building, the second or third floor, I don't know how many floors it was, that's completely out of the question, it's not going to happen under your impression? It could never have happened in the first place as far as construction end of it?

MR. ROSENBLUM: In my professional opinion, the amount and extent of work required to make that building conform to the building types and provide for exiting, to meet the requirements of the New York State Building Code life safety code and State Educational Department requirements both for ceiling height exiting and pupil safety would be extraordinary and would exceed the feasibility of the use for the building within a financial--

MR. PETRO: And the owners were probably not always aware, they were misled a little bit.



MR. ROSENBLUM: I was not present during that time. The extent or the cost and the time involved to do the work within that footprint again is something that I just don't understand how that, you know, could be proposed, reasonably, the building was originally constructed of two houses that were joined internally. That footprint is visible when you walk into the space. A multi-story building by State Educational Code requires 9 foot ceiling height, multiple exits both from each floor. If that were defined as a Type 4 building by the bulk tables by New York State Code, the exterior walls must have a two hour fire rating which provides for limitations for open areas. There must be a secondary means of egress from each area. It literally would be a ground up reconstruction from foundations up. I wouldn't know how to do it and I'm not aware of the criteria that was used prior, for that evaluation, I don't know.

MR. LANDER: Well, Marshall, this first came in, they wanted to have three stories and I would hate to think that that was, they were misled by whoever they contracted with and we get these modulars in here, these temporary classrooms now they are going to be permanent. I don't know how much trouble you're going to have at zoning.

MR. ROSENBLUM: I don't know what the perception of the zoning board will be but in good faith, we make the application, looking at the site once the photographs get to you, looking at the buildings, looking at the landscaping that exists and has been placed around them were isolated at the rear of the building towards commercial parking lots, rear parking lots and I see the impact from a common sense standpoint as minimal.

MR. LANDER: Marshall, can remember the public hearing that we had here and the people were assured that these were only temporary classrooms.

MR. ROSENBLUM: I read the transcripts and understand them.

MR. LANDER: They didn't have too much of a problem with that, they didn't even like that idea as far as

three or four stories, they were totally against that, but it wasn't in our jurisdiction to tell you that you can't build it. You had to get passed the building inspector and New York State code.

MR. ROSENBLUM: There are also two of the modular classroom units as opposed to the three that were originally proposed.

MR. PETRO: Gentlemen, I have been down there a number of times, as I said before, I'll say it again for the minutes, that my son has attended the school, so I have been on the site, while I have no connection with the applicant, but matter of fact, I have been there as early as last Monday or Tuesday, Monday, I believe and the site has been really protected well. There's been a lot of landscaping put in, lot of time and money have been spent to make this look very nice. Frankly, I can't even see, other than the one house that's to the north of the property, you can't even see other homes, unless you really look through the woods, you've got to really look around, see what's there, the buildings themselves, I know they don't use the word temporary classrooms, I guess they are modular units, I guess they are temporary.

MR. ROSENBLUM: Modular units are used for many years by school districts until either permanent construction or school populations change, they meet all the safety requirements.

MR. PETRO: I have been in and through the units and they are excellent and well built, believe me, and the layout in the front, everything is really done well. So, actually, I was impressed with it.

MR. LANDER: I don't think that's the problem, Mr. Chairman. I think the problem is the people were told that they were going to be temporary, they can go back, they can make their application and do whatever they have to do, but they still have to go for a public hearing.

MR. PETRO: They are only here now, we're going to send them to the zoning board.

MR. LANDER: I want to make them aware that's what the people were told.

MR. PETRO: Some of the conditions now are a little different than when they were proposing it because now they are done and people can see they can see the hundred shrubs they planted, but that's not for me to say. When you go to the public hearing, people are going to show up and go one way or the other and you'll know where you stand.

MR. ROSENBLUM: I referred to this as a mercy application, this is where we are now, it's what we have to do.

MR. PETRO: Send them to the zoning board, they'll have their say there.

MR. LANDER: I'm just telling you you're going to find opposition, I'm sure.

MR. PETRO: I do want to bring to the attention that we have the fire review came back as disapproved and there's three items here which you can take a copy and go over if you have not seen it.

MR. ROSENBLUM: That I have a copy of and I resubmitted.

MS. MASON: This is a new one.

MR. LANDER: What are the three?

MR. PETRO: Insufficient open space for staging of children during building evacuation and out of the way for emergency services access to the property. Number 2 is site plan does not reflect current conditions, what that exactly means, I'm not sure. We have to check with Bob Rogers on that or John McDonald and number 3, insufficient fire department access to rear classroom.

MR. ROSENBLUM: What's the date of that review? Cause I believe I have the final one.

MR. ROSENBLUM: I believe I have a sign-off.

MR. PETRO: Date plan received 6/17/99 and you received it back this afternoon, 3:30 this afternoon. I'd like to contact John McDonald and try to find out exactly what he wants done to remedy these situations and I think we'll still send you to the zoning board because they are going to really make your decision as to whether or not you're going to receive your coverage you're looking for on the lot. I just don't want to spend a lot of time at the planning board process if you are unsuccessful at zoning.

MR. ROSENBLUM: This is what I got from Rogers' office.

MR. PETRO: April 8. Does anybody want to see the pictures? Has everyone seen these? Okay, then, why don't we get them off to zoning board and if he's successful in getting his variances, we can go from there. I think that that would clear up a little bit more of Ron's concerns with the public hearing because you're going to have a public hearing at the zoning board and we can certainly get some of the content of that. If we find if you get a lot of them show up and it's a big deal we'll have another public hearing and make up our own mind so if you are willing to do all that, well, I need a motion to approve it.

MR. ARGENIO: Make that motion.

MR. LANDER: Second it.

MR. PETRO: Motion has been made and seconded for final approval.

ROLL CALL

MR. ARGENIO	NO
MR. STENT	NO
MR. LANDER	NO
MR. LUCAS	NO
MR. PETRO	NO

MR. PETRO: At this time, you have been referred to the

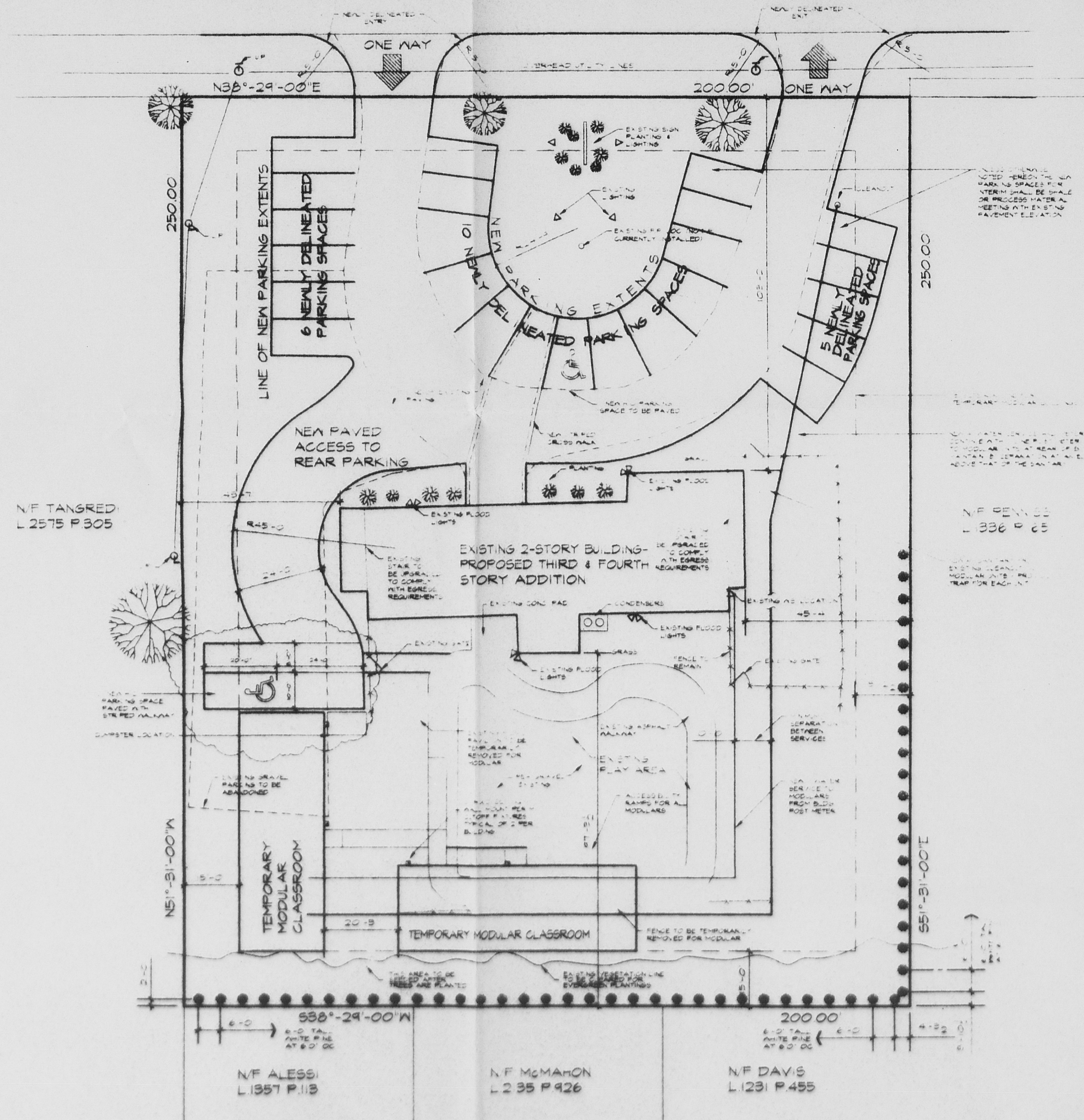
June 23, 1999

15

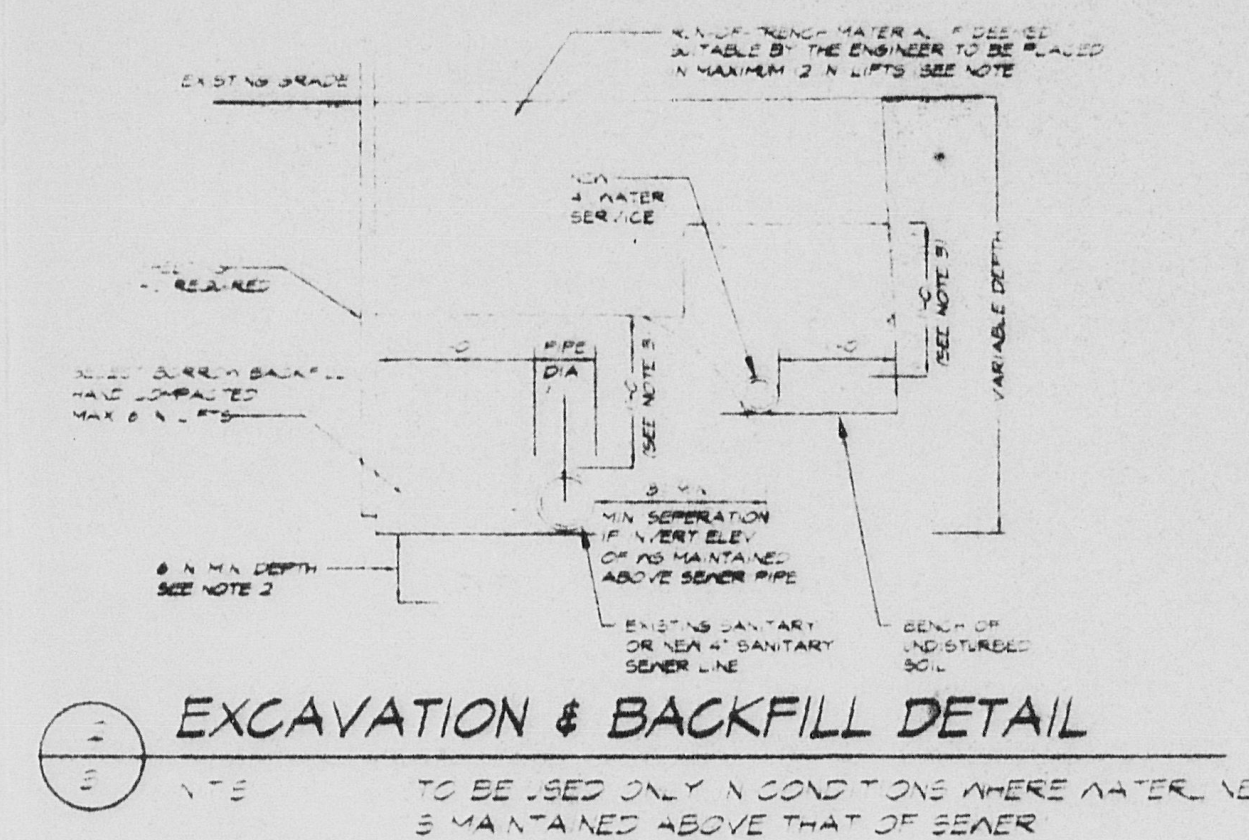
New Windsor Zoning Board for your necessary variances. Once you have been successful in receiving those and once you reappear before this board, we'll set you up on the next agenda, if you wish to appear before this board, we'll set you up for the next agenda. Thank you.



# QUASSAICK AVENUE (N.Y.S. RTE 94)



## PROPOSED INTERMEDIATE SITE PLAN



**EXCAVATION & BACKFILL DETAIL**

NOTE: TO BE USED ONLY IN CONDITIONS WHERE WATER LINE IS MAINTAINED ABOVE THAT OF SEWER

## TAX MAP (SECTION: 40/BLOCK: 3/LOT: 37)



## ZONING MAP

## BULK REQUIREMENTS

COLUMN B (USES BY SPECIAL PERMIT OF TH PB OR TB)  
ITEM #4 TRAILERS - TEMPORARY (PROPOSED)

	REQUIRED	PROPOSED
MINIMUM LOT AREA	10000 SQFT	1478 AC
MINIMUM LOT WIDTH	100 FT	200 FT
MINIMUM FRONT YARD	40 FT	66.5 FT
MINIMUM SIDE YARD/BOTH	15.35 FT	5.50 FT
MINIMUM REAR YARD	5 FT	5 FT
STREET FRONTAGE	N/A	N/A
BUILDING HEIGHT	35 FT	8 FT
FLOOR AREA RATIO (FAR)		12

ZONE: NEIGHBORHOOD COMMERCIAL (NC)  
COLUMN B (USES BY SPECIAL PERMIT OF TH PB OR TB)  
ITEM #6 PRIVATE SCHOOLS (EXISTING)

	REQUIRED	EXISTING
MINIMUM LOT AREA	20 AC	11478 AC
MINIMUM LOT WIDTH	300 FT	200 FT
MINIMUM FRONT YARD	100 FT	103.69 FT
MINIMUM SIDE YARD/BOTH	100/200 FT	49.86/99.99 FT
MINIMUM REAR YARD	100 FT	± 97 FT
STREET FRONTAGE	100 FT	200 FT
BUILDING HEIGHT	50 FT	± 24
FLOOR AREA RATIO (FAR)	N/A	N/A
DEVELOPMENT COVERAGE	20%	24.18%

1 SPACE TO 12 STUDENTS (ANTICIPATED ENROLLMENT = 250 MAX.)

NOTE:  
A REQUIREMENT OF GRANTING A CERTIFICATE OF OCCUPANCY SHALL BE THE REMOVAL OF ALL TEMPORARY MODULAR BUILDINGS AND THEIR UTILITIES

## NOTES:

INFORMATION FOR THE SITE PLAN AND GENERAL LAYOUT TAKEN FROM SURVEY PREPARED BY RAYMOND L. A. PLUMRE, JR. IN 1982. WORK ON DECEMBER 8, 1981. MAP ENTITLED 'SURVEY MAP OF LANDS OF ABC LEARNING CENTER, INC. AND PAULITA ARMANDO A. PAULITA ARMANDO & ASSOCIATES, INC. ENGINEERS & PLANNERS'.

ADDITION & ALTERATIONS TO  
ABC LEARNING CENTER  
HEADS, HANDS & HEARTS, INC.  
New Windsor, NY  
Quassaick Avenue

HARVEY ALLEN BERG & ASSOC.  
ARCHITECT • ENGINEER • PLANNER  
P.O. BOX 498, WASHINGTONVILLE, N.Y. 10982  
PH: 814-498-8125 • FX: 814-498-1682 • EMAIL: HABERG@aol.com

DRAWING NO.

S-1  
SITE PLAN

RECEIVED JUN 17 1993

99-17